

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

ROYCE LANEIL HAWTHORNE,

Plaintiff,

v.

Case No. 23-CV-133-JPS

ROBERT LLOYD, JOSUE AYALA,
ALAN BEATHE, JEFFREY
KENNEDY, and WILLIAM MAUCH,

Defendants.

ORDER

Plaintiff Royce Laneil Hawthorne ("Plaintiff") filed this action on February 1, 2023, alongside a motion for leave to proceed without prepayment of the filing fee, or to proceed *in forma pauperis*. ECF Nos. 1, 5. The case was reassigned to this branch of the Court on March 1, 2023. Plaintiff also filed a motion for an extension of time to pay the filing fee, ECF No. 3, which was docketed that same day.

The total cost of filing a civil action is \$402.00, which includes the \$350.00 statutory filing fee and a \$52.00 administrative fee. However, the \$52.00 administrative fee does not apply to persons granted *in forma pauperis* status. However, the Prison Litigation Reform Act ("PLRA"), allows the Court to give a prisoner plaintiff the ability to proceed with his case without prepaying the civil case filing fee. 28 U.S.C. § 1915(a)(2). Pursuant to the PLRA, a prisoner plaintiff proceeding *in forma pauperis* is required to pay the statutory filing fee of \$350.00 for any civil action. *See id.* at § 1915(b)(1). When funds exist, the prisoner must pay an initial partial filing fee. *Id.* He must then pay the balance of the filing fee over time, through deductions from his prisoner account. *Id.* at § 1915(b)(2).

At this time, the Court cannot assess whether Plaintiff is entitled to proceed *in forma pauperis* because he has submitted the *non-prisoner* request form. See ECF No. 5 at 1. Accordingly, Plaintiff's motion for leave to proceed without prepayment of the filing fee will be denied without prejudice, meaning that he may refile such a motion provided he does so following the correct procedure explained by the Court below.

Plaintiff also did not timely submit an institutional trust account statement as directed by the Clerk of Court on February 1, 2023. See ECF No. 2 ("The court has received your Request to Proceed in District Court Without Prepaying the Filing Fee. You must also submit a certified copy of your institutional trust account statement for the past six months within 21 days of this letter."). The Court will deny Plaintiff's motion for an extension of time to pay the filing fee, ECF No. 3, as moot, since the determination of whether Plaintiff must pay the filing fee in full up front, or instead may proceed upon payment of only an initial partial filing fee, necessarily depends on receipt of Plaintiff's institutional trust account statement. Plaintiff must submit his institutional trust account statement in accordance with the instructions below.

The Court will give Plaintiff an opportunity to correct these shortcomings. Within **twenty-one (21) days** of the date of this Order, Plaintiff must do the following:

- (1) Submit a motion for leave to proceed without prepayment of the filing fee using the correct form. The Court will direct the Clerk of Court to mail Plaintiff a copy of the correct form for prisoner use, and
- (2) Submit a certified copy of his institutional trust account statement for the past six months.

Alternatively, if Plaintiff no longer wishes to seek to proceed without prepayment of the filing fee and instead wishes to simply pay the \$402.00 filing fee in full, he must do so within **twenty-one (21)** days of the date of this Order. **No extensions of time will be granted.**

The Court will not perform a preliminary review of the merits of Plaintiff's complaint until these steps are completed. Failure to either timely submit the required documents for a determination of *in forma pauperis* status, or to pay the filing fee in full, will result in dismissal without prejudice of this action.

Accordingly,

IT IS ORDERED that Plaintiff's motion for leave to proceed without prepaying the filing fee, ECF No. 5, be and the same is hereby **DENIED without prejudice;**

IT IS FURTHER ORDERED that Plaintiff's motion for an extension of time to pay the filing fee, ECF No. 3, be and the same is hereby **DENIED as moot;**

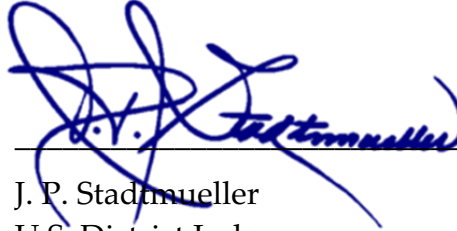
IT IS FURTHER ORDERED that the Clerk's Office mail Plaintiff a blank "Prisoner Request to Proceed in District Court Without Prepaying the Full Filing Fee" form along with this Order;

IT IS FURTHER ORDERED that, within **twenty-one (21)** days of the date of this Order, Plaintiff must **either** submit (1) a prisoner motion for leave to proceed without prepayment of the filing fee and (2) a certified copy of his institutional trust account statement for the past six months **or** pay the \$402.00 filing fee in full; and

IT IS FURTHER ORDERED that Plaintiff's failure to complete one of these alternatives will result in the dismissal without prejudice of this action.

Dated at Milwaukee, Wisconsin, this 3rd day of March, 2023.

BY THE COURT:



J. P. Stadtmueller
U.S. District Judge

Plaintiffs who are inmates at Prisoner E-Filing Program institutions shall submit all correspondence and case filings to institution staff, who will scan and e-mail documents to the Court. Prisoner E-Filing is mandatory for all inmates at Columbia Correctional Institution, Dodge Correctional Institution, Green Bay Correctional Institution, Oshkosh Correctional Institution, Waupun Correctional Institution, and Wisconsin Secure Program Facility.

Plaintiffs who are inmates at all other prison facilities, or who have been released from custody, will be required to submit all correspondence and legal material to:

Office of the Clerk
United States District Court
Eastern District of Wisconsin
362 United States Courthouse
517 E. Wisconsin Avenue
Milwaukee, Wisconsin 53202

DO NOT MAIL ANYTHING DIRECTLY TO THE COURT'S CHAMBERS. If mail is received directly to the Court's chambers, **IT WILL BE RETURNED TO SENDER AND WILL NOT BE FILED IN THE CASE.**

Plaintiff is further advised that failure to timely file any brief, motion, response, or reply may result in the dismissal of this action for failure to prosecute. In addition, the parties must notify the Clerk of Court of any change of address. **IF PLAINTIFF FAILS TO PROVIDE AN UPDATED ADDRESS TO THE COURT AND MAIL IS RETURNED TO THE COURT AS UNDELIVERABLE, THE COURT WILL DISMISS THIS ACTION WITHOUT PREJUDICE.**